

# Strategy Research Project

## THE ARMY NATIONAL GUARD AND THE DEPARTMENT OF HOMELAND SECURITY

BY

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## ABSTRACT

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The citizen-soldiers of the Army National Guard have lost their focus and original purpose as a State Militia available for disaster recovery operations, assisting law enforcement, and defending the homeland. The pressure felt by the current operations tempo to use the Army National Guard as an operational reserve can only be alleviated by moving the Army National Guard from the Department of Defense to the Department of Homeland Security. Such a move will not cut off relationships developed between the Army and the National Guard, two organizations with a common history, but recognizes that the two organizations should have different primary missions of homeland security (National Guard) and national defense (U.S. Army). This realization of similar capabilities but different missions is already working between the U.S. Coast Guard and the Department of Navy.



## THE ARMY NATIONAL GUARD AND THE DEPARTMENT OF HOMELAND SECURITY

Colonel, they're militia! They're farmers with pitchforks.

—General Lord Cornwallis to Colonel Tavington  
in the movie "The Patriot" (2000)<sup>1</sup>

### What is the Army National Guard?

The United States Army National Guard has come a long way from being merely farmers with pitchforks as described in the above epigraph. Today they are a highly trained and battle tested reserve component of the United States Armed Forces. For over 370 years the Army National Guard and its predecessors have defended the homeland, put down civil disobedience and alleviated the suffering of millions of Americans devastated by natural disaster. Militias have served in every conflict since the founding of the Colonies in the 17<sup>th</sup> Century. The Militia clause of the U.S. Constitution Article 1, Section 8 gives Congress the power to "provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions."<sup>2</sup> The U.S. National Guard was created in its modern form following the 1947 National Security Act.<sup>3</sup> The Act subordinated the individual state units to the U.S. Army when under the direction of the President of the United States.

### Organization

The Army National Guard (ARNG) is currently organized within the Department of Defense (DoD) under a matrix structure, beginning at the top with a four-star Commander of the National Guard Bureau, who commands both the Army and Air National Guard, and the Secretary of the Army. There are ARNG Units from all fifty states plus three U.S. territories (Guam, Puerto Rico, and the U.S. Virgin Islands) and the District of Columbia. In 2009 there were 358,200 Soldiers serving in the ARNG.<sup>4</sup>

The Air National Guard, the Air Force equivalent of the Army National Guard, was first authorized in January 1946 and consisted of WWII veterans and equipment. The Air National Guard (ANG) became a separate entity from the Army National Guard on the same day the Air Force was created September 18, 1947.<sup>5</sup> The primary mission of the ANG is “to lead, assist, or augment the active duty Air Force.” The 2008 manpower strength of the ANG was 106,678 airmen and comprises 24 percent of the Nation’s Air Force.<sup>6</sup>

#### Army Guard Core Missions

Popular movies, such as the exploits of the Massachusetts 54<sup>th</sup> Volunteer Infantry as depicted by actor Matthew Broderick in the movie *Glory*, and Jeff Daniels as Civil War hero Colonel Joshua Lawrence Chamberlain in *Gettysburg*, illustrate the absolute necessity of having a capable reserve of citizens willing to abandon their normal lives and pick up arms in the defense of the United States of America’s vital national interests.<sup>7</sup>

The Governor of each state is the Commander-in-Chief for his or her National Guard units. If civil unrest exists, the National Guard has law enforcement powers granted by each state’s constitution. The National Guard was called on for one such occasion during the Los Angeles riots in 1992 by then Governor of California, Pete Wilson. Subsequently the California National Guard was placed under Federal Control by President H.W. Bush when he moved active duty soldiers and marines into Los Angles to augment the forces already there and restore calm.<sup>8</sup>

During times of natural disaster, the National Guard is oftentimes the only authority in control during an emergency under the auspices of the state governor (or the President who controls the National Guard in the case of the Washington, D.C.

ARNG) such as the aftermath of a hurricane or tornado. The difference between the National Guard and the active duty components of the Armed Services is the active components have full-time soldiers covered by all of the expected pay, allowances, basing, and benefits. Whereas Guardsmen are called up by the President only in times of national crisis and until recently were considered a *Strategic Reserve* until a draft would raise more troops for the active component.

Guardsmen have regular jobs and when not on active duty, no benefits with the Federal Government such as housing allowances and medical coverage. When they are deployed, they often suffer financially because their military pay, in some circumstances, is far less than their civilian income.<sup>9</sup> There are also Guardsmen that have suffered from job discrimination at the hands of employers who willingly violate Federal laws protecting the jobs of Guardsmen who have been called to active duty.<sup>10</sup>

After the 2001 terrorist attacks occurred on our homeland, committed by members of the Al Qaeda network, Army National Guard Units have served in ongoing and repeated combat tours in Afghanistan and Iraq in conjunction with the active duty component. Indeed, Guardsmen have been fighting and dying alongside their active duty brothers and sisters throughout the present-day conflicts.<sup>11</sup>

With the concept of an all-volunteer Armed Forces intact even in this era of “persistent conflict” the Guard has been left to hold the gap as an *Operational Force* rather than the Strategic Reserve. This dependency on the Guard gives our national security leaders no incentive to increase the size of the active component to meet the 21<sup>st</sup> Century challenges now before us.

## New Missions/ New Challenges/ New Security Environment

The Department of Homeland Security (DHS) was established after the terrorists' attacks of September 11, 2001 to prevent future attacks by terrorists crossing the U.S. borders. According to the Homeland Security Act of 2002, the mission of DHS is to "(A) prevent terrorist attacks within the United States; (B) reduce the vulnerability of the United States to terrorism; and (C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States."<sup>12</sup> So by statute, protecting the borders is the responsibility of DHS and the military should be used only to thwart an actual armed attack.

Illegal border crossings are perpetrated by four different types of actors; 1) people looking to enter the U.S. for work or a better life, 2) human traffickers, 3) drug traffickers and smugglers, 4) terrorists. Of the four types, the last three give great pause and are considered threats to our homeland security. The security at the borders is at best porous and must be improved. The reason for the ease of illegal entry into the United States is primarily because there are not enough Border Control officers and Coast Guard vessels to cover the nation's vast land and water boundaries.<sup>13</sup> Congress and the public are demanding that more be done to control these activities.<sup>14</sup>

One option to securing the borders is to use the U.S. military to prevent infiltration of illegal activity, an approach advocated by the Minuteman Project. The "Minutemen" were a group of private citizens who patrolled the U.S. Mexican border in Arizona and caused the ire of the Border Patrol. The Border Patrol characterized them as vigilantes and attempted to restrict these private citizens from actually confronting illegal immigrants. The Minutemen volunteers complied and relayed sightings to the Border Patrol who then responded to apprehend the offenders. The leaders of the

Minutemen organization lobbied the Federal government to task the military with the responsibility of securing the borders because, in their opinion, the enormity of the task is beyond the current capabilities of the Border Patrol. In 2006 President George W. Bush declined to use the active component for reasons outlined in the next paragraph, but did agree to mobilize ARNG troops at the request of several governors of Border States.

One of the criticisms of using the U.S. Military to patrol the borders is that the practice can lead to deadly accidents. In 1997 a US Marine squad patrolling the border in Redford, Texas shot and killed an 18-year old student, Esequiel Hernandez Jr., who had a .22 caliber rifle while tending sheep near his family farm. The government paid a \$1.9 million settlement to his family but the point is that a tragedy like that is not something the military wants to ever repeat.<sup>15</sup> In fact, the Pentagon discontinued the practice of using active duty forces for border security after this incident.<sup>16</sup> As former Under Secretary of Defense Lawrence Korb stated, “the military is trained to vaporize not Mirandize.”<sup>17</sup>

Mexican President, Felipe Caldern, has declared war on drug gangs in Mexico and is using the Mexican military to interdict the flow of drugs on the Mexican side of the border. However the effect achieved by the crackdown is an unprecedented rise in violence especially against the police and the law enforcement establishment. This rise is partly the result of the use by the Mexican drug cartels of former Mexican Special Forces soldiers to go after targets on behalf of the drug lords.<sup>18</sup>

The United States cannot use its military in the same way as Mexico because of an 1878 statute called *Posse Comitatus*, 18 U.S.C. §1385, which limits the use of the

federal military for law enforcement purposes. *Posse Comitatus* is the legal framework that restricts the operation of active duty military within the borders of the United States. This legislation was passed in response to Union Soldiers occupying the South during Reconstruction from 1865-1875.<sup>19</sup>

State ARNG units are exempt from *Posse Comitatus* when acting on behalf of their respective state governor and when under federal control with Title 32 authorities.<sup>20</sup> Additionally, the President and Congress can use the military in support of civilian affairs without violating *Posse Comitatus*, and in many cases the president has the authority to use the military for law enforcement under the Insurrection Act “to restore the rule of law during times of insurrection, domestic violence, unlawful combination, or conspiracy.”<sup>21</sup>

The military can and does support civilian law enforcement without encroaching on *Posse Comitatus*. Examples of support include providing transportation, aids to navigation, search and rescue and UAS (unmanned aerial systems).<sup>22</sup> Many of these programs are so expensive that it would be out of the reach of any civilian law enforcement agency to fund them. Soldiers, Airmen, and Marines can patrol the land borders with UAV’s (Unmanned Arial Vehicles) and monitoring of radio/communications transmissions. The 2010 Quadrennial Homeland Security Report says “sensors, detectors, and other unmanned systems can play a vital role in supporting decisions about whether threats are present and when to intervene.”<sup>23</sup>

*Posse Comitatus* and reducing risk to the U.S. citizens is the reason President Bush used the ARNG as the preferred option to protecting the nation’s borders. This approach cannot be an indefinite deployment for the Guardsmen. Only short

deployments of not more than 30-45 days should be used because of an increased OPTEMPO requirement for Guard units to be ready to deploy to combat zones in Iraq and Afghanistan. Guardsmen must also be available to assist civil authorities in the event of a natural disaster or other declared emergency.

Short duration deployments to the border may be even more effective than sustained operations because of the costs involved. Many believe this mission should be funded by the Department of Homeland Security since border security is in their mission statement. However, others feel the DoD should pay because they are in a better position to afford the cost and this operation would fall under the DoD mission area of "Homeland Defense." The bill-payer should be divided uniformly between DHS, DoD, and the States' Governors requesting the National Guard's presence.

In addition to the efforts on the U.S. side of the border, the U.S. government is currently providing \$1.6 billion over a three year period in aid to the Mexican government to attack the drug problem. In doing so other problems with the border besides drugs (i.e., illegal immigration, human trafficking, and possible terrorists entering the U.S. through the borders) may be mitigated by increased vigilance of the Mexican authorities to stem the flow of drugs into the United States. This assistance to the Mexican government should be continued if the number of arrests and amount of contraband seized goes down as a result of a tougher and more effective stance taken on by the Mexican authorities.<sup>24</sup>

#### Chemical Biological Radiological Nuclear Explosive (CBRNE)

Similar command and control structures must be in place in the remote but devastating event of a large scale chemical, biological, nuclear, or radiological attack. The Federal Bureau of Investigation (FBI) is responsible for counterterrorism, DHS is

responsible for emergency management, and the DoD is responsible for homeland defense (HLD). This does not account for local and state first responders who would be first on the scene and most at risk.

The CCMRF (pronounced C-Smurf) of USNORTHCOM (U.S. Northern Command) is composed of a brigade combat team (BCT), an aviation brigade, and a medical brigade ready to deploy for a variety of domestic purposes but primarily for response to “chemical, biological, radiological, nuclear, and high-yield explosive (CBRNE) attacks and not to help with “law enforcement, civil disturbance or crowd control.”<sup>25</sup> Because of this mandate, the CCMRF would not be readily available and not an efficient use of the specialized skills contained within this group if they were used to patrol the nation’s borders.

### Disaster Response

After Hurricane Katrina cut a swath through the Gulf Coast in August 2005, several news sources from around the world, such as *The Independent* in the United Kingdom, blamed military shortages caused by the war in Iraq as a factor in the loss of life in the floods that followed the storm. *The Independent* reported “desperately needed National Guards were stuck in Iraq...”<sup>26</sup>

The reality was much different, as reported by then National Guard Bureau Chief Lt. General Steven Blum who said, “Within four hours of the storm, troops were in the water, on the streets and in the air saving lives and the National Guard would be lauded in congressional hearings as the most organized, well-prepared agency responding to the disaster.”<sup>27</sup> LTG Blum also reported “79,000 Guard were in federal service for the war on terrorism, 58,000 National Guard Citizen-Soldiers and Airmen poured into the stricken area.”<sup>28</sup>

A 2007 RAND Corporation monograph concluded that the slow response to Hurricane Katrina in the Gulf and in particular the State of Louisiana was due more to a political tussle between Federal authorities and the Governor. The conclusion reached by the report was that National Guard units deployed to Iraq at the time of Katrina did not lessen the Guard's ability to respond. LTG Blum concurred with this sentiment when he stated in the RAND report, "National Guard deployments to Iraq did not slow the Guard's response to Hurricane Katrina."<sup>29</sup>

Notwithstanding the myths of Katrina, the public perception that the government "abandoned Americans on American soil" remains.<sup>30</sup> The 2010 Quadrennial Defense Review (QDR) report acknowledges that the "United States must also be prepared to respond to the full range of potential natural disasters."<sup>31</sup> Perhaps the best course of action in the overall defense strategy is to support civil authorities only if and when needed and allowing the Department of Homeland Security to take the lead federal role for homeland security and defense. The reality may be that it is all DoD can do when it is trying to do other missions outlined in the QDR such as "Prevailing in Today's Wars, Preventing and deterring conflict, and Preparing to defeat adversaries," which must take the forefront.<sup>32</sup> However, with their Title 32 authority, the National Guard is well suited to be the lead in the event of natural or manmade disasters.

USNORTHCOM is the geographical Combatant Command charged with defending the homeland. Nevertheless, the 2010 QDR report calls for "fielding faster, more flexible consequence management response forces."<sup>33</sup> DoD's plan is to rely on National Guard forces to build Homeland Response Forces for each of the ten FEMA regions. The National Guard forces will prepare the way with command and control in

the event Title 10 forces are needed, but their dual Title 32 authority gives the ARNG greater flexibility.<sup>34</sup>

### Need for Change

In a speech given in April 2009 to students and faculty at the U.S. Army War College, Secretary of Defense Robert Gates answered a question about the National Guard balancing its homeland defense mission with becoming an operation force with “numerous contingency and combat operations.” He said that he thought a “bait-and-switch” had been pulled on the Nation’s reserve component when they “suddenly found themselves deployed for 15 months to Iraq or Afghanistan.”<sup>35</sup> Secretary Gates went on to say those who joined the Guard and Reserves after 2003, however, know what they were getting themselves into.<sup>36</sup>

These deployments have caused the same amount of stress on Guardsmen that have affected active duty soldiers. The difference, until just a few years ago, was that active duty troops got assistance in reintegrating into life, safe and far away from the war zone and the Guard just went back to their civilian lives without benefit of counseling or receiving coping skills to deal with post deployment problems. General McKinley commented in August, 2009 about “Yellow Ribbon” programs where states are supporting Guardsmen, their families, and their employers as impressive, but he said he still saw a lot of stress on Guard families.<sup>37</sup>

With Guard members constantly deployed overseas because of the increased OPTEMPO since March 2003, the readiness levels of each state’s Guard units are well below acceptable.<sup>38</sup> These units when deployed are unavailable for defense of the homeland in their respective states or aiding state authorities, local law enforcement and first responders during a state of emergency, either manmade or natural.

The switch of the ARNG from a strategic reserve to an operational force with expected regular rotations slightly less than the active component amounts to a nationalization of the ARNG. These rotations usurp some of the authority each of the state governors would have over their respective ARNG forces because they would be called up under federal authority. Another attempt to nationalize the ARNG occurred during the writing of the National Security Act of 1947.

Former Secretary of the Navy and the first Secretary of Defense James Forrestal created a panel called the “Gray Board” named for retiring Secretary of the Army Gordon Gray, to examine the reserve components. The board wanted to create a National Guard that came under a national framework and not the governors of each state. This effort was successfully fought back by numerous interest groups especially NAGUS (National Guard Association of the United States). The NAGUS President at the time, Major General Ellard Walsh declared the initiative as, “just another effort over a long period of time by the War Department and the Regular establishment to supplant the National Guard system with a Federal Reserve or Militia.”<sup>39</sup> Congress dismissed the recommendation and the modern Army National guard was created.<sup>40</sup>

What would MG Walsh think about the current effort to change the National Guard from a Strategic Reserve to an Operational Force deployed on behalf of the Active Component on a persistent basis? He would probably think and say the same thing he said in 1947, the Federal Government was trying to federalize the National Guard.

### Rebalance the Force

The 2007 RAND Corporation study recommended that the ARNG be given the federal mission to conduct homeland security (HLS) activities as is the case in

counterdrug activities. The study also suggests this blueprint as a way to improve the Army's response to future catastrophic domestic emergencies.<sup>41</sup>

Dr. Lawrence Korb from the American Center for Progress made several recommendations in 2004 for transforming the Reserve Component for the 21<sup>st</sup> Century to include improving the flexibility of compensation strategies to include full employment for those willing to be deployed more frequently and others being allowed to serve minimum requirements because of "significant civilian commitments." Dr. Korb's stresses "the military should institute more flexible forms of military service."<sup>42</sup>

Along with flexible compensation strategies, Dr. Korb also recommended to "Increase the size of the Active Army and Marines by at least 100,000."<sup>43</sup> The recommendation was made so the Active forces would rely on the reserve components less for overseas commitments.

His third recommendation was to establish a volunteer, non-deployable force in each state equipped and trained to deal with catastrophic disasters.<sup>44</sup> The purpose of the "home guards" is to backup the State Army National Guard units. One example of such a state funded force is the Tennessee State Guard. The Tennessee State Guard claims a history of more than 200 years and in their mission statement is a "force multiplier to the Tennessee National Guard and under the direction of the Adjunct General will assist civil authorities with disaster relief, humanitarian causes, ceremonial service, religious and medical support for the well being and safety of the citizenry of Tennessee."<sup>45</sup>

In 2002 The Heritage Foundation's Jack Spencer also wrote about the National Guard taking the lead as the military agency for homeland security.<sup>46</sup> He said "Units

located in every American community have the capabilities, legal authority [Title 32], and structure to respond quickly to attacks on the homeland.”<sup>47</sup> This is true except if DoD is trying to adequately fund this mission along with others (e.g., nuclear counter proliferation, operate effectively in cyberspace) plus fight two wars overseas, the homeland security mission may go wanting. DHS may be in a better position to garner funding through Congressional appropriations for the National Guard to execute its focused homeland security mission.

A fourth author giving thought to the armed forces of the future is former Pentagon Brief Thomas Barnett. Barnett discusses in his book Blueprint for Action: A Future Worth Creating, the “Leviathan Force” for fighting the war through termination of conflict phase, and a “SysAdmin” force for stabilization operations and reconstruction activities.<sup>48</sup> Barnett believes the active component of the U.S. Armed Forces is the Leviathan force because of its “high-speed, high-lethality, and high-precision in major combat operations.”<sup>49</sup> However he feels like this strength is its weakness when it comes the “second half of (winning the) peace.”<sup>50</sup> If the people needed for the second half are police officers and construction workers, as Barnett describes the SysAdmin force, this is precisely the type of people serving in the National Guard who have these types of jobs in their civilian lives. What Barnett envisions as the SysAdmins is not in his view the National Guard but what he describes is exactly the competencies residing within the National Guard.

### Recommendations

The traditional Guard member commitment prior to 2003 of one weekend per month and two weeks a year is probably long gone as observed by General McKinley at a recent gathering of Guard Members.<sup>51</sup> However, these citizen-soldiers did not sign up

to the active duty component either. While none of the experts from the American Center for Progress, the Heritage Foundation or Thomas Barnett advocated actually moving the National Guard from DoD to DHS, balance must be brought back between full spectrum operations overseas and defending the homeland. Political leaders must understand that the typical individual Guard Member is primarily a civilian and only a part-time soldier whose duties include possible overseas deployments as the Strategic Reserve component but focus primarily on the homeland security mission. If homeland security is the purview of the National Guard, then this can only be done by taking the following actions:

1. Move the National Guard Bureau to DHS
2. Increase authorized number of active Army personnel
3. Formalize “Homeguard” units under each state’s ARNG structure
4. Apply the same strategy for the Air National Guard (ANG)

The Homeland Security Act of 2002<sup>52</sup> presented a unique opportunity to consolidate the Nation’s various federal law enforcement agencies under one umbrella to:

- Prevent terrorist attacks within the United States
- Reduce the vulnerability of the United States to terrorism
- Minimize the damage, and assist in the recovery from terrorist attacks that do occur within the United States
- Act as a focal point regarding natural and manmade crises and emergency planning

- Ensure other responsibilities not directly related to securing the homeland are still carried out (e.g., Immigration and Naturalization, Secret Service)
- Ensure that overall Economic Security is not diminished by effort to secure the homeland
- Monitor the connections between illegal drug trafficking and terrorism

With the exception of the Federal Bureau of Investigation, Federal Law

Enforcement was consolidated under this new Cabinet-level Department, including the U.S. Coast Guard because of their law enforcement capabilities. However, the Coast Guard continues to also be a member of the Armed Forces of the United States.

After 9/11, no such massive reorganization was ordered by Congress with regard to the structure of the Department of Defense, with the exception of the DoD Intelligence Agencies coming under the umbrella of a new Director of National Intelligence who was now responsible for the coordination of all sixteen federal intelligence agencies including the Central Intelligence Agency.<sup>53</sup> Instead, the organization of the DoD has been largely unchanged since the 1947 National Security Act and the Goldwater-Nichols Act of 1986 as amendment.

There is also the matter of *Posse Comitatus* previously mentioned, the 1886 law preventing Federal Troops from policing U.S. Citizens on U.S. Soil except in instances described in the Insurrection Act.<sup>54</sup> Presidents have used federal troops inside of the U.S. to help integrate schools, quell riots, and to assist citizens and civil authorities trying to cope with natural disasters. Even in these cases, the President must first publicly declare an emergency prior to committing Title 10 troops and he always risks political backlash if people feel that the president overextended his powers.

The National Guard has no such restriction because they have Title 32 law enforcement authority when activated by State Governors. They can be called up to use this authority for a variety of missions to include firefighting and search and rescue operations. In the current threat environment, author Thomas Goss calls the area in homeland security between those things clearly law enforcement and those considered purely military a *seam*. He goes on to say, “Along this *seam* are threats such as transnational terrorist groups who challenge the delineation of responsibility between DOD and DHS, DOJ, or other agencies, because it is difficult to label them as either a national security threat or a law enforcement threat.” Goss sees this lack of a clearly defined border between the three departments as an inherit strength because of the fact that DHS, DoD, DOJ, and other federal agencies overlap each other and the president can simply decide which department will take the lead.<sup>55</sup>

Sometimes though, not having clearly defined boundaries can result in confusion of who is in charge. Goss’ assertion that the enemy will always attack us at our seams was clearly illustrated as recently as December 2009 in the Christmas Bomber plot. In that case a Nigerian citizen, Umar Farouk Abdulmutallab, traveling from the Netherlands to Detroit, Michigan on an airplane tried to ignite explosives that where sewn into his clothes.<sup>56</sup>

One way to address this seam is to make the National Guard in charge of homeland defense. For example, the National Guard will align with the service components of USNORTHCOM for combating terrorism inside of North America and would be the conduit between law enforcement and the Department of Defense. DHS as it is structured now cannot participate in an interagency structure within

USNORTHCOM like Department of State officials placed within the structure of USAFRICOM and those who will eventually integrate with USSOUTHCOM. If the National Guard Bureau became part of DHS along with its two military components, the Army National Guard and the Air National Guard, then by default the organizational structure of USNORTHCOM would also be interagency. Furthermore, if the makeup of the command structure of USNORTHCOM was mostly made up of general officers from the National Guard, then this combatant command would in effect belong to, at least in peacetime, DHS. Even though homeland security and homeland defense would be the primary responsibility of the National Guard under DHS, they would remain essential to also assisting DoD in Title 10 overseas contingencies in addition to support and stability operations around the world.

The result is that DoD could leverage its resources for overseas missions while at the same time the National Guard Bureau is leveraging its resources with DHS agencies to achieve a tremendous force multiplier. If the ARNG was shifted to DHS for the homeland security mission, then DHS would become responsible for the federal portion of funding the ARNG along with contributions from the states. If instead the ARNG unit is activated for an overseas contingency mission supporting the active component, the Secretary of Defense retains the authorization to continue funding National Guard units under Title 10 of the U.S. Code.

### Conclusion

*Why would a Move to DHS be Good for the Army National Guard?* Perhaps the concept of one weekend a month and two weeks a year commitment of the ARNG has in all likelihood come to a permanent end. However one thing is for certain, the Army National Guard member is distinct and very different than the full-time soldiers serving

in the active component and should be given missions to reflect that fact. If the concept of the citizen-soldier is to be preserved and the primacy of state control preserved, then the ARNG should be taken out of the DoD and placed in the Department of Homeland Security.

If the National Guard was moved to DHS to take the lead on the Homeland Security and Homeland Defense missions, they could still fulfill the role of a reserve component of the U.S. Armed Forces. Should Guard forces be required for overseas contingency operations, they could be called up by the President of the United States as they are today. The National Guard Bureau would still manage the Active Guard and Reserve (AGR) program to fill out shortages within the active component. For example, less than 5% of the 850 USNORTHCOM billets are currently filled by full-time guardsmen.<sup>57</sup> A recommendation made by the Commission on the National Guard and Reserve, given the COCOM's emergency response and civil support responsibilities, is to increase the number of AGR personnel to fill the majority of USNORTHCOM's billets.<sup>58</sup>

Civilians who would be responsible for staffing, financial management, logistics and acquisition do not currently exist in the numbers they would need if the National Guard operated independently from DoD. This capability for support would have to be created but the organization could be designed in a way very unique to all of the other transformation efforts in government currently underway. DHS would have to rely on DoD professionals and contractors at first but eventually they would develop the capabilities necessary for day-to-day management of the National Guard on their own.

*Why would a Move to DHS be Good for the U.S. Army?* For those people who do not think this will work; that the Army and Air National Guard does not have the capability to train, equip, and carry out missions on their own, should only look towards the U.S. Coast Guard as an example. The Coast Guard, the U.S. Marines, and the Navy created a document called “A Cooperative Strategy for 21<sup>st</sup> Century Seapower” and articulated a strategy for all three services to work together in a universal *Maritime Strategic Concept*. One of the tenets of the strategy is “United States seapower will be globally postured to secure our homeland and citizens from direct attack and to advance our interests around the world.”<sup>59</sup> It should also be remembered that in the event of a Declaration of War, the Coast Guard would be subordinate to the Department of Navy. A National Guard Bureau, interdependent from DoD filling in the gap that exists between law enforcement and military combat operations would benefit the Army because the active component of the Army would be able to focus on armed conflicts, other overseas contingency operations, and readiness in the event of unforeseen major combat operations.

Under this proposal the Secretary of Defense still gets to request the activation of individual Guard Units in times of national crisis. The difference is the Secretary of Defense must work through the Secretary of Homeland Security to get those units called up for federal service. Having another cabinet-level secretary would ensure requirements are properly vetted.

The Army’s standby brigade can be released to handle world crises while the Army National Guard takes on the CBRNE Consequence Management Response Force (CCMRF) responsibilities for protection of the homeland. The primary

responsibility of the U.S. Army becomes solely to project U.S. military power overseas with a now secondary mission for homeland security, defense, and consequence management. Under this proposal, each state's National Guard units will have the primary responsibility for homeland security and homeland defense with a secondary duty of assisting the active Army in OCONUS operations.

Current Army and Joint doctrine will be embraced but there is every reason to believe that eventually an ARNG independent of DOD will develop doctrine as well. This doctrine will focus on Homeland Security and Homeland Defense.

*Why would a Move to DHS be Good for the Nation?* It stands to reason that some really unique things will occur over time. One positive development is procurement will spread out scarce dollars across the Defense Industrial Base, which now competes in an unhealthy *winner-take-all* environment for major systems. As long as interoperability is assured, why can't a new U.S. Army vehicle manufactured by General Dynamics be as useful as an ARNG version of the same system manufactured by Lockheed-Martin?

Mackenzie Eaglen of the Heritage Foundation wrote "Securing America's military dominance for the decades ahead will require; 1) an industrial base that can retain a highly skilled workforce with critical skill sets and; 2) sustained investment in platforms that offer future commanders and civilian leaders a vital set of core military capabilities and equipment to respond to any threat." A National Guard (like the Coast Guard) procuring their own weapons systems would strengthen America's Defense Industrial Base not weaken it.

Perhaps new doctrine will be developed to deal with 21<sup>st</sup> century threats such as the effects of global warming, Cyber warfare, Flu Pandemic response, and CBRNE attacks against the homeland that will synergize with DoD doctrine to maintain the safety and prosperity of the United States of America throughout this century and the next. It is possible to foresee a Homeland Security “Pentagon” forming between the DHS departments consisting of the ARNG, Air National Guard, Coast Guard, FEMA, and Law Enforcement.

A natural progression of a joint military force dedicated solely to securing and defending the homeland would call for other volunteer auxiliaries such as the Civil Air Patrol falling under the Air National Guard like the Coast Guard Auxiliary comes under the Coast Guard. State Home Guards would complement and be administratively subordinate to each State’s Army National Guard organization. This arrangement provides defense-in-depth starting with the individual American Citizen securing the Homeland from the bottom up.

## Endnotes

<sup>1</sup> Roland Emmerich, Dir., *The Patriot*, DVD (South Carolina, USA: Columbia Pictures Corp., 2000).

<sup>2</sup> Major General Timothy J. Lowenberg, “The Role of the National Guard in National Defense and Homeland Security,” *National Guard* (September 2005): 2.

<sup>3</sup> Michael D. Doubler and John W. Listman, Jr., “The National Guard: An Illustrated History of America’s Citizen-Soldiers 2<sup>nd</sup> Ed.” (Dulles, VA: Potomac Books, 2007), 102.

<sup>4</sup> The Honorable Pete Geren and General George W. Casey, Jr., “2009 Army Posture Statement,” (Washington, DC: U.S. Department of the Army, May 2009), 7.

<sup>5</sup> Michael D. Doubler and John W. Listman, Jr., “The National Guard: An Illustrated History of America’s Citizen-Soldiers 2<sup>nd</sup> Ed.” (Dulles, VA: Potomac Books, 2007), 143.

<sup>6</sup> Lt. Col. Kevin S. Dailey, "Air National Guard Structure for the Twenty-first Century: The Multimission Framework for the Total Force Integration" *Air War College Maxwell Paper No. 43* (Maxwell Air Force Base, AL: Air University Press, May 2008), 8.

<sup>7</sup> Edward Zick, Dir., *Glory*, DVD (Savannah, GA: TriStar Pictures, 1989). Ronald F. Maxwell, Dir., *Gettysburg*, DVD (Adams, County, PA: TriStar Television, 1993).

<sup>8</sup> Lynn E. Davis et al., *Hurricane Katrina: Lessons for Army Planning and Operations* (Santa Monica, CA: RAND Corporation, 2007), 62.

<sup>9</sup> Senator Richard Durbin, "Amendment to Emergency Supplemental Appropriations Act 2005" Congressional Record (April 12, 2005).

<sup>10</sup> Lindsay Wise, "Guard Sergeant Gets His Job Back," September 4, 2009, linked from the Houston Chronicle Home Page, <http://www.chron.com/> (accessed September 4, 2009).

<sup>11</sup> Veterans for America, *Weekend Warriors to Frontline Soldiers: A State-by-State Account of the Toll of Deployments on National guard Brigade Combat Teams* April 4, 2008 (Washington DC: Veterans for America), 5.

<sup>12</sup> Homeland Security Act of 2002: Title I – Department of Homeland Security; "Section 101, Executive Department; Mission," [http://www.dhs.gov/xabout/laws/law\\_regulation\\_rule\\_0011.shtml](http://www.dhs.gov/xabout/laws/law_regulation_rule_0011.shtml) (accessed November 16, 2009).

<sup>13</sup> Bert Tussing, "Military's Role in Border Security," *Homeland Security Affairs*, no. 3 (October 2008), 3.

<sup>14</sup> Chris Strohm, "Lawmakers Consider Using Military to Seal U.S. Borders." Government Executive.Com, April 28, 2005, (accessed November 13, 2009).

<sup>15</sup> Gene Healy, "Border Security Is No Job for the Military." February 5, 2003. [http://www.cato.org/pub\\_display.php?pub\\_id=6319](http://www.cato.org/pub_display.php?pub_id=6319) (accessed November 11, 2009).

<sup>16</sup> Ken Ellingwood. "Guard Troops to Be Assigned to Mexican Border; Defense: Deployment is meant to boost security. Critics question the use of soldiers for domestic law enforcement: [Home Edition]." *Los Angeles Times*, February 23, 2002, <http://www.proquest.com/> (accessed November 13, 2009).

<sup>17</sup> Gene Healy, "Border Security Is No Job for the Military." February 5, 2003. [http://www.cato.org/pub\\_display.php?pub\\_id=6319](http://www.cato.org/pub_display.php?pub_id=6319) (accessed November 11, 2009).

<sup>18</sup> Joseph Contreras, "Caldern's Unwinnable War; Using troops to fight Mexico's drug lords has pushed the death toll to new highs, testing public patience and support: [International Edition Edition]." *Newsweek*, June 18, 2007. <http://www.proquest.com/> (accessed November 13, 2009).

<sup>19</sup> David G. Bolgiano, J.D., "Military Support of Domestic Law Enforcement Operations: Working with Posse Comitatus," *FBI Law Enforcement Bulletin*, December 2001, 19.

<sup>20</sup> Commission on the National Guard and Reserves, “Transforming the National Guard and Reserves into a 21<sup>st</sup>-Century Operational Force,” *Final Report to Congress and the Secretary of Defense* (July 31, 2008) 45.

<sup>21</sup> COL Craig Trebilcock “Resurrecting *Posse Comitatus* in the Post-9/11World,” *Army Magazine* (May 2009), 22.

<sup>22</sup> Office of Assistant Secretary of Defense for Homeland Defense and America’s Security Affairs, “FAQ’S: Defense Support to Civil Authorities,” [http://policy.defense.gov/sections/policy\\_offices/hd/faqs/desfenseSupport/index.html](http://policy.defense.gov/sections/policy_offices/hd/faqs/desfenseSupport/index.html) (accessed February 24, 2010).

<sup>23</sup> 2010 Quadrennial Homeland Security Review Report (Washington DC: Department of Homeland Security, February 2010), 68.

<sup>24</sup> Stephanie Miller, “A Regional Strategy for Drug Wars in the Americas,” American Center for Progress, [www.americanprogress.org/issues/2009/04/drug\\_wars.html](http://www.americanprogress.org/issues/2009/04/drug_wars.html) (accessed November 11, 2009).

<sup>25</sup> Bert Tussing, “Military’s Role in Border Security,” *Homeland Security Affairs*, no. 3 (October 2008), 12.

<sup>26</sup> Kim Sengupta, “Iraq War Delayed Katrina Relief Effort, Inquiry Finds,” The Independent World, October 3, 2005, <http://www.independent.co.uk/news/world/americas/iraq-war-delayed-katrina-relief-effort-inquiry-finds-509339.html> (accessed February 12, 2010).

<sup>27</sup> Donna Miles, “National Guard Responds to Hurricane Katrina,” August 29, 2005, <http://www.defense.gov/news/newsarticle.aspx?id=16778> (accessed February 12, 2010).

<sup>28</sup> Ibid.

<sup>29</sup> Lynn E. Davis et al., *Hurricane Katrina: Lessons for Army Planning and Operations* (Santa Monica, CA: RAND Corporation, 2007), 47.

<sup>30</sup> The editors of Popular Mechanics, “Debunking the Myths of Hurricane Katrina: Special Report,” *Popular Mechanics Online*, March 2006, <http://www.popularmechanics.com/science/earth/2315076.html?page=2> (accessed February 13, 2010).

<sup>31</sup> Department of Defense, “Quadrennial Defense Review Report,” February 1, 2010, <http://www.defense.gov/qdr/> (accessed February 4, 2010), 12.

<sup>32</sup> Ibid., 10.

<sup>33</sup> Ibid., 19.

<sup>34</sup> LTC Howard S. Thevenet, “National Guard Counterdrug Operations: A Case for Greater Participation,” *Student Research Project* (Carlisle, PA: United States Army War College, July 4, 2003), 25.

<sup>35</sup> "Remarks by Secretary of Defense Robert Gates at the Army War College Carlisle, PA," April 16, 2009. <http://www.defense.gov/Transcripts/Transcript.aspx?TranscriptID=4404> (accessed August 11, 2009).

<sup>36</sup> Ibid.

<sup>37</sup> MSgt. Mike R. Smith, National Guard Bureau, "Guard Chief Encourages 'Continual Support' of Families" August 20, 2009, <http://www.af.mil/news/story.asp?id=123164157> (accessed October 19, 2009).

<sup>38</sup> Janet St. Laurent, U.S. Government Accountability Office, *Army National Guard and Army Reserve Readiness for 21st Century Challenges* (Washington, DC: U.S. Government Accountability Office, September 21, 2006), 6.

<sup>39</sup> Michael D. Doubler, *Civilian in Peace, Soldier in War* (Lawrence, Kansas: University Press of Kansas, 2003), 229.

<sup>40</sup> Ibid, 229.

<sup>41</sup> Lynn E. Davis et al., *Hurricane Katrina: Lessons for Army Planning and Operations* (Santa Monica, CA: RAND Corporation, 2007), xiii.

<sup>42</sup> Lawrence Korb, "Transforming the Reserve Component for the 21<sup>st</sup> Century" Center for American Progress (November 18, 2004): 6.

<sup>43</sup> Lawrence J. Korb and Sean E. Duggan, "Caught Off Guard: The Link Between Our National Security and Our National Guard," Center for American Progress, May 2007, 6.

<sup>44</sup> Ibid.

<sup>45</sup> The Tennessee State Guard Home Page, <http://www.tnsg.us/> (accessed February 12, 2010).

<sup>46</sup> Jack Spencer, "The National Guard and Homeland Security" July 29, 2002, The Heritage Foundation, <http://www.heritage.org/research/homelandsecurity/em826.cfm> (accessed March 29, 2006).

<sup>47</sup> Ibid.

<sup>48</sup> Thomas P.M. Barnett, *Blueprint for Action: A Future Worth Creating* (New York: G.P. Putnam's Sons, 2005), 24.

<sup>49</sup> Ibid., xvii.

<sup>50</sup> Ibid.

<sup>51</sup> Lt. Col. Ellen Krenke, "Chief Says Guard Cannot Go Back to Strategic Reserve," August 13, 2009, National Guard Bureau, <http://www.ng.mil/news/archives/2009/08/081409-Reserve.aspx> (accessed August, 18, 2009).

<sup>52</sup> The Homeland Security Act of 2002, Public Law 107 – 296, 107<sup>th</sup> Cong., (November 25, 2002), 8.

<sup>53</sup> Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, 108<sup>th</sup> Cong., (December 17, 2004), Sec. 102.

<sup>54</sup> Stephen R. Viña, “Border Security and Military Support: Legal Authorizations and Restrictions,” Congressional Research Service, Library of Congress (May 23, 2008), 3.

<sup>55</sup> Thomas Goss, “Who’s in Charge? New Challenges in Homeland Defense and Homeland Security,” *Homeland Security Affairs* Vol. II, Article 2 (2006), 2.

<sup>56</sup> Warren Richey, “Abdulmutallab Charged in Christmas Day Terror Attempt,” *The Christian Science Monitor*, January 6, 2010.

<sup>57</sup> Commission on the National Guard and Reserves, “Transforming the National Guard and Reserves into a 21<sup>st</sup>-Century Operational Force,” *Final Report to Congress and the Secretary of Defense* (July 31, 2008) 45.

<sup>58</sup> Ibid.

<sup>59</sup> General James T. Conway, Admiral Gary Roughhead, and Admiral Thad W. Allen, *A Cooperative Strategy for 21<sup>st</sup> Century Seapower*, (Washington, DC: October 2007), 6.

